

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

LE-NATURE'S INC. COMMERCIAL
LITIGATION

MB FINANCIAL BANK, N.A.,

Plaintiff,

v.

MARSHALL INVESTMENTS CORPORATION,
MARSHALL FINANCIAL, INC., THE
MARSHALL GROUP, MARSHALL
BANKFIRST CORP., CIT GROUP/EQUIPMENT
FINANCING, INC., KRONES, INC., KRONES
AKTIENGESELLSCHAFT, VOLKER
KRONSEDER and HEINZ SOMMER,
Defendants.

(N.D. IL Civil Action No. 08-cv-2138,
transferred to MDL as of April 9, 2009)

WDPA DOCKET NO. 2:09-MC-00162-DWA
MDL DOCKET NO. 2021

Civil Action No.: 2:09-cv-469-DWA

**JOINT MOTION TO DISMISS THE CLAIMS OF
MB FINANCIAL BANK, N.A. AGAINST THE KRONES DEFENDANTS**

Plaintiff MB Financial Bank, N.A. ("MB") and Defendants Krones, Inc., Krones Aktiengesellschaft, Volker Kronseder and Heinz Sommer (collectively, the "Krones Defendants," and along with MB, the "Movants"), pursuant to Fed. R. Civ. P. 41(a)(2), hereby jointly move for the entry of an Order dismissing all claims asserted by MB against any of the Krones Defendants in its Third Amended Complaint (the "MB Complaint") *with prejudice*. In support of this motion, the Movants respectfully state as follows:

1. MB and the Krones Defendants have entered into a settlement agreement with respect to all claims that have been asserted against the Krones Defendants in the MB Complaint.

2. In accordance with the terms of the parties' agreement, MB desires to have all of its pending claims against the Krones Defendants in the MB Complaint dismissed *with prejudice*, with each party bearing its own costs and attorneys' fees.

3. This motion does not address or otherwise adjudicate MB's remaining claims asserted against other parties in the MB Complaint.

4. A proposed Order of Dismissal has been submitted with this motion.

/s/ Richard A. Saldinger
Richard A. Saldinger
S. Jarret Raab
Shaw Fishman Glantz & Towbin LLC
321 North Clark Street, Suite 800
Chicago, Illinois 60610
(312) 541-0151
rsaldinger@shawfishman.com
jraab@shawfishman.com
Counsel for MB Financial Bank, N.A.

/s/ Andrew J. Wronski
Andrew J. Wronski
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-271-2400
awronski@foley.com
*Counsel for Krones, Inc., Krones
Aktiengesellschaft, Volker Kronseder
and Heinz Sommer*

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2012, I served a true and correct copy of the foregoing upon each of the following by Electronic mail or U.S. mail pursuant to the Pretrial Order No. 1: Initial Case Management Order (“CMO”):

Counsel for Marc S. Kirschner:

Christine A. Alvarez
Christopher P. Johnson
David S. Rosner
Kim Conroy
Maria Gorecki
Michael M. Fay
KASOWITZ, BENSON, TORRES &
FRIEDMAN LLP
1633 Broadway, 21st Floor
New York NY 10019
cmontenegro@kasowitz.com
cjohnson@kasowitz.com
drosner@kasowitz.com
kconroy@kasowitz.com
mgorecki@kasowitz.com
mfay@kasowitz.com

George T. Snyder
Richard O. Earley
Roy E. Leonard
STONECIPHER, CUNNINGHAM,
BEARD & SCHMITT
125 First Avenue
Pittsburgh PA 15222
gsnyder@scbslaw.com
rearley@stonecipherlaw.com
rleonard@stonecipherlaw.com

Counsel for Compass Financial
Corporation and Compass Bank:

Gregory C. Cook
A. Kelly Brennan
Conrad L. Anderson
BALCH & BINGHAM LLP
1901 6th Avenue North
P.O. Box 306
Birmingham AL 35201-0306
gcook@balch.com
kbrennan@balch.com
canderson@balch.com

Gretchen L. Jankowski
BUCHANAN INGERSOLL & ROONEY PC
301 Grant Street
One Oxford Centre, 20th Floor
Pittsburgh PA 15219
gretchen.jankowski@bipc.com

Counsel for Marshall Financial, Inc. and
Marshall Investments Corporation:

Jerome A. Miranowski
Michael M. Krauss
Jane Maschka
FAEGRE & BENSON LLP
90 South Seventh Street
2200 Wells Fargo Center
Minneapolis MN 55402
jmiranowski@faegre.com
mkrauss@faegre.com
jmaschka@faegre.com

Counsel for CIT Group/Equipment
Financing, Inc.:

Stuart C. Gaul, Jr.
Kimberly Luff Wakim
THORP, REED & ARMSTRONG, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh PA 15219-1425
sgauljr@thorpreed.com
kwakim@thorpreed.com

Steve L. Caponi
BLANK ROME
1201 North Market Street, #800
Wilmington DE 19801
caponi@blankrome.com

Christopher Sharp
BLANK ROME LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103
sharp@blankrome.com

Robert R. Baugh
SIROTE & PERMUTT
2311 Highland Avenue South
P.O. Box 55727
Birmingham, AL 35205
rbaugh@sirote.com

Counsel for Plaintiff Farm Credit Leasing
Services Corporation

Christopher P. Schueller, Esquire
Timotny P. Palmer
BUCHANAN INGERSOLL & ROONEY, P.C.
301 Grant Street
One Oxford Centre, 20th Floor
Pittsburgh, PA 15219
christopher.schueller@bipc.com

H. Marc Tepper, Esquire
Two Liberty Place
50 South 16th Street, Suite 3200
Philadelphia, PA 19102
Marc.tepper@bipc.com

Counsel for Krones Inc., Krones AG, Heinz
Sommer, and Volkner Kronseder

Andrew J. Wronski
Elizabeth A. N. Haas
Laura S. Kwaterski
Eric L. Maassen
FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202
awronski@foley.com
ehaas@foley.com
lkwaterski@foley.com
emaassen@foley.com

Counsel for BDO Seidman

William P. Donovan, Jr.
DLA Piper
1999 Avenue of the Stars, Suite 400
Los Angeles, CA 90067-6023
william.donovan@dlapiper.com

Cary B. Samowitz
DLA Piper
1251 Avenue of the Americas
New York, NY 10020-1104
cary.samowitz@dlapiper.com

Timothy Hoeffner
Jayne A. Risk
DLA Piper
One Liberty Place
1650 Market Street, Suite 4900
Philadelphia, PA 19103-7300
timothy.hoeffner@dlapiper.com
jayne.risk@dlapiper.com

Counsel for the United States of America

James W. Garrett
UNITED STATES ATTORNEYS OFFICE
700 Grant Street
Suite 4000
Pittsburgh, Pennsylvania 15219
james.garrett@usdoj.gov

/s/ Richard A. Saldinger